United Nations CMW/C/SR.343

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Distr.: General
11 April 2017

Original: English

Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families
Twenty-sixth session

Summary record (partial)* of the 343rd meeting
Held at the Palais Wilson, Geneva, on Monday, 3 April 2017, at 3 p.m.

Chair: Mr. Brillantes

Contents

Consideration of reports submitted by States parties under article 73 of the Convention

Initial report of Bangladesh

* No summary record was prepared for the rest of the meeting.

This record is subject to corrections. Corrections should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of the present record to the Documents Management Section (DMS-DCM@un.org).

Any corrected records of the public meetings of the Committee at this session will be reissued for technical reasons after the end of the session.

GE.17-05453 (E) 100417 110417

1705453

Please recycle

The discussion covered in the summary record began at 3.25 p.m.

Consideration of reports submitted by States parties under article 73 of the Convention

Initial report of Bangladesh (CMW/C/BGD/1; CMW/C/BGD/Q/1 and Add.1)

1. *At the invitation of the Chair, the delegation of Bangladesh took places at the Committee table.*

2. **Mr. Islam** (Bangladesh), introducing his country's initial report (CMW/C/BGD/1), said that Bangladesh was a major source country for migrant workers and that, by generating foreign income and creating job opportunities abroad for millions of Bangladeshis, migration was promoting growth and development in Bangladesh. His country's commitment to promoting and protecting the human rights of migrant workers was reflected in its ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in 2011. It was important to note that undocumented nationals of Myanmar were not considered to be migrant workers in Bangladesh and were therefore not covered by the Convention.

3. Even though, at the time of ratification, many of the rights set forth in the Convention had already been enshrined in the Constitution, within a few years thereafter, the parliament had enacted laws to incorporate other major provisions of the Convention into domestic law. Such laws included anti-human trafficking legislation in 2012; the Overseas Employment and Migrants Act of 2013, which provided for the establishment of a safe and fair system of migration and the penalization of unscrupulous recruitment practices; and the Children's Act of 2013, which provided for the protection of children from potential exploitation, such as early marriage and hazardous work. It was noteworthy that child labour had fallen by 50 per cent in the period 2003-2010.

4. Other legislative initiatives relating to migrant workers included a new immigration bill, a bill regulating labour in the export processing zones and a wage earners' welfare board bill. In addition, various sets of rules were being formulated, notably the Recruitment Agencies Licence, Conduct and Classification Rules and the Migrant Workers Registration Rules. The Government had framed and instituted a number of relevant policies, among them the National Women's Development Policy, the National Skills Development Policy, the Domestic Workers' Protection Policy and, most recently, the Expatriates' Welfare and Overseas Employment Policy. It had also drafted an action plan for achieving the Sustainable Development Goals that related to migration.

5. The Government of Bangladesh, which had already ratified seven of the eight fundamental conventions of the International Labour Organization (ILO), was in the process of strengthening its institutions in preparation for the implementation of other international instruments relevant to migrant workers. The Ministry of Expatriates' Welfare and Overseas Employment, which was the main regulatory body for international migration and the implementation of the Convention, had received an increased budgetary allocation of US$ 32 million for the financial year 2016/17. That amount was due to increase to US$ 100 million for the financial year 2019/20.

6. Support for migrant workers was available through a number of different channels, such as the Bureau of Manpower, Employment and Training, which had provided skills training to more than half a million aspiring migrant workers in 2016; the network of Bangladeshi missions abroad; and the Vigilance Task Force, which had been set up to monitor recruitment processes and which had conducted 12 different operations that same year. Also in 2016, labour attachés had inspected more than 2,000 workplaces in 27 countries to verify the provisions of employment contracts and had visited places of accommodation and detention centres in those countries. Moreover, the Wage Earners' Welfare Board provided financial assistance to thousands of migrant workers and scholarships to their children.

7. One significant difficulty in ensuring protection for Bangladeshi migrant workers abroad lay in the fact that many of the destination countries to which they migrated had not ratified the Convention. The Government was continuously urging those States to take

action in that regard, while seeking at the same time to conclude bilateral agreements with them for the purpose of protecting migrant workers.

8. In addition to all its other efforts, the Government was also taking action to address the issue of migration at the global level. Bangladesh had hosted the most recent conference of the Global Forum on Migration and Development and had played an instrumental role in the high-level plenary meeting on addressing large movements of refugees and migrants, which had been organized by the United Nations General Assembly on 19 September 2016. Bangladesh was working actively with other States Members of the United Nations towards the adoption of a global compact for safe, orderly and regular migration. The Government had also facilitated a visit from the Special Rapporteur on violence against women, its causes and consequences, whose conclusions and recommendations had important implications for the rights of Bangladeshi female migrant workers.

9. **Ms. Dzumhur** (Country Rapporteur) said that the Committee recognized the problems facing the Government in its efforts to protect migrant workers — particularly those that stemmed from the fact that many countries of destination of Bangladeshi workers had not ratified the Convention — and she applauded the legislative measures that the Government was taking in that regard. She would be interested to know how many migrant workers were employed in Bangladesh and why such professionals as doctors and engineers were not recognized as migrant workers.

10. The Committee had received reports that more than 23,000 migrant workers from Bangladesh were being held in detention around the world, and she wished to know what steps were being taken to reduce that number. The delegation should explain why Bangladesh had not yet ratified the following ILO Conventions: the Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the Private Employment Agencies Convention, 1997 (No. 181) and the Domestic Workers Convention, 2011 (No. 189) and whether it had plans to ratify the 1951 Convention relating to the Status of Refugees and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol). She wondered how international standards could be applied in the State party when they had not been incorporated into its domestic legislation. She was concerned that no new by-laws had been introduced for the 2013 Overseas Employment and Migrants Act, which was apparently being implemented with by-laws designed for earlier legislation.

11. **Mr. Kariyawasam** (Country Rapporteur) said that the fact that the Bangladeshi delegation was led by a minister was an encouraging sign of the Government's commitment to protecting migrant workers. It was unfortunate, however, that the delegation included no women. He wondered whether care was taken to maintain enough female officers in Bangladeshi missions abroad to ensure that the needs of female migrant workers were adequately understood and addressed. In that regard, he would appreciate more detailed information about the number and gender of labour attachés in Bangladeshi missions and whether and how they were trained before being posted. More generally, he requested statistics on the number of female migrant workers from Bangladesh who worked abroad.

12. Misconduct by recruitment agencies could cause a great deal of suffering to migrant workers. The Committee had heard that, in some cases, Bangladeshis wishing to work in Singapore had had to pay up to four years' salary as a recruitment fee. If that was true, that practice was tantamount to bonded labour. He wished to know what procedures were in place to monitor the activities of recruitment agencies, penalize establishments that engaged in unlawful practices and enable migrant workers to submit complaints to the authorities regarding such practices. Was it true that prospective migrant workers had to go through 27 levels of approval at the Bureau of Manpower, Employment and Training?

13. He had been gratified to learn of the existence of the National Human Rights Commission and asked what financial resources the Government provided to ensure that the Commission operated in accordance with the Paris Principles and adopted a rights-based approach to issues affecting migrant workers, particularly in view of the fact that workers' remittances were one of the country's chief sources of foreign revenue.

14. He wished to commend the State party for its efforts to conclude bilateral agreements with labour-receiving countries, and he wished to know whether civil society organizations and other stakeholders were involved in drafting such agreements. He enquired as to whether efforts were made to introduce the provisions of the Convention into the process of negotiating the bilateral agreements, even if a labour-receiving country was not itself a party to the Convention, and whether the contents of such agreements were made public. The Committee was concerned about the status of undocumented nationals of Myanmar in Bangladesh and wished to know how they were treated in the State party. Were safeguards in place to prevent them from being trafficked, and were there contacts with the Government of Myanmar to ensure their welfare? In that context, the Committee would encourage Bangladesh to sign the 1951 Convention relating to the Status of Refugees.

15. **Ms. Ladjel** said that she would like to hear more details about strategies to improve the welfare of migrant workers. She wished to know how the network of 71 Bangladeshi missions abroad provided specific support for female migrant workers and child migrants who were often victims of rights violations that included the confiscation of documents, economic exploitation, ill-treatment and violence.

16. **Mr. El-Borai** said that, since undocumented nationals of Myanmar who were living in Bangladesh were not considered to be migrant workers, he would be interested to know whether they enjoyed the same legal rights as Bangladeshis in such areas as working conditions, equal pay and access to social security and whether their children had the same access to State education as other children in Bangladesh. He wished to know whether Bangladesh had concluded bilateral agreements with labour-receiving countries that operated the *kafalah* (individual sponsorship) system and, if that was the case, whether those agreements regulated the use of that system.

17. **Mr. Tall** said that the delegation should provide more information about the difficulties that had been faced in drafting the initial report, particularly those that had led to its late submission. It would be interesting to know how civil society organizations had participated in the drafting process, whether their views had been taken into account and how the opinions of Bangladeshi nationals abroad had been canvassed for inclusion. Could the delegation tell the Committee when the immigration bill was likely to be adopted into law?

18. He wondered what specific efforts were being made to conclude agreements and memorandums of understanding to protect migrant workers, particularly female domestic workers, in the three countries which alone received 80 per cent of all Bangladeshi migrant workers: Saudi Arabia, the United Arab Emirates and Malaysia. What role did Bangladeshi missions abroad have when migrant workers suffered a violation of their rights and sought access to justice? He wished to know whether there were mechanisms in place to enable Bangladeshi migrant workers living abroad to vote in national elections. The fact that they were concentrated in large numbers in a limited number of countries should facilitate the development of such a mechanism.

19. He was concerned by the fact that, according to the report of the State party, 39 per cent of migrant workers found employment overseas through private recruitment agencies, while only 1 per cent went through the government agency, the Bangladesh Overseas Employment and Services Ltd. Private agencies were profit-making enterprises and always charged for their services, sometimes at great cost to the migrants, and he wondered if any measures were being taken to reverse that trend in favour of the State-run body.

20. **Mr. Ünver** said that it would be interesting to hear whether the Government had developed any policies regarding Bangladeshi transnational communities, particularly since, in many of the countries in which they worked, Bangladeshi migrant workers were not allowed to establish associations of their own. Did such policies also address the issues that migrant workers might face when they returned home? Remittances from migrant workers, which made an important contribution to the Bangladeshi economy, were mostly used for the daily household expenses of migrants' families, and he wondered whether the Government had any plans to channel that revenue into large-scale development programmes.

21. **Ms. Dicko** said that further details about how recruitment agencies were regulated and which national institution was in charge of monitoring their activities would be helpful. Were migrant workers able to respond to direct offers of employment from abroad, or did everything have to go through the recruitment agencies? In view of the violations by Myanmar of ILO conventions concerning forced labour and the use of child soldiers, she was particularly concerned about the status of undocumented nationals of Myanmar in Bangladesh. Even if they were not considered migrant workers, there was no question but that they were refugees, and she would appreciate more information about how they were treated.

22. She wished to know if there was a mechanism to facilitate the transfer of remittances to Bangladesh from the country's migrant workers abroad. Did law enforcement officers, lawyers and judicial officials, as well as migrant workers themselves, receive training in their duties and rights under the Convention? Were all Bangladeshi migrant workers adults or were some of them children?

23. **Ms. Castellanos Delgado** said that it would be interesting to know how many Bangladeshi women were employed abroad, how many had taken their children with them and what the return migration rate was among women. She would appreciate statistics on the number of children who had left Bangladesh for the purpose of family reunification and on the support provided by the Government for the repatriation of the bodies of Bangladeshi nationals who had died abroad.

24. **Mr. Kariyawasam** said that he wished to congratulate the Government on the adoption of the Overseas Employment and Migrants Act of 2013, which manifested the State party's commitment to promoting the welfare of migrant workers. He wished to know how many complaints had been filed under the Act, including those submitted online; what follow-up had been given to those complaints; and what mechanism was in place for handling them. The delegation should explain what legal assistance and redress had been provided to complainants and indicate whether the mobile courts mentioned in paragraph 35 of the replies to the list of issues (CMW/C/BGD/Q/1/Add.1) were in operation. With regard to remittances, he asked what steps had been taken to enable Bangladeshis who lived outside the major cities to receive money transfers from their relatives employed overseas, without having to go through an intermediary, which was costly and opened the door to corruption.

25. **Mr. Tall** asked whether the rule whereby no one could leave Bangladesh for overseas employment without first obtaining clearance from the Bureau of Manpower, Employment and Training was effective in monitoring migration, or whether it encouraged clandestine behaviour and corrupt border practices.

26. **The Chair** asked whether a programme had been developed to facilitate the economic, social and cultural reintegration of returning migrant workers.

The meeting was suspended at 4.40 p.m. and resumed at 5.05 p.m.

27. **Mr. Haque** (Bangladesh) said that the Constitution, which had been signed into law by the father of the nation, Sheikh Mujibur Rahman, on 16 December 1972, embodied the provisions of the Universal Declaration of Human Rights and guaranteed respect for the rule of law. All persons in Bangladesh were entitled to equality before the law and to equal opportunities without discrimination. Anyone who believed that their rights had been violated could seek justice before the courts. There were currently some 32,000 refugees from Myanmar living in two refugee camps in Bangladesh. Measures had been taken to collect disaggregated data on those individuals, who could in no way be viewed as migrant workers, according to the way of that term that was defined in the Convention.

28. **Mr. Ahmed** (Bangladesh) said that the Secretary of the Ministry of Expatriates' Welfare and Overseas Employment was a woman, but she had not been included in the delegation because the Minister himself was heading the delegation. The representatives of civil society organizations had been consulted on many occasions during the preparation of both the initial report and the replies to the list of issues. Although it was a net exporter of migrant labour, Bangladesh hosted around 22,000 foreign professionals, whose working conditions were governed by the Labour Act of 2006. The provisions of the Prevention and

Suppression of Human Trafficking Act of 2012 reflected those of the Palermo Protocol. Although the Government was not in a position to make the declarations provided for under articles 76 and 77 of the Convention, it urged labour-receiving countries to do so.

29. In accordance with the National Strategy on Myanmar Refugees and Undocumented Myanmar Nationals of 2013, the camps accommodating refugees from Myanmar were run by the Office of the United Nations High Commissioner for Refugees. Humanitarian support was provided by, among others, the United Nations Population Fund, the World Food Programme, the United Nations Children's Fund and local non-governmental organizations with experience in matters relating to refugees. Refugees from Myanmar had access to education and health care, but were not granted all the same rights and privileges as Bangladeshi citizens.

30. Of the 45 labour attachés employed in the 28 labour wings of the Bangladeshi missions located in 25 countries around the world, 39 were men and 6 were women. The labour wings in nine of those countries had helped to repatriate a total of 23,488 migrant workers. In addition to providing regular consular services, the missions offered legal assistance in relation to salaries and benefits and worked to secure the release of detained Bangladeshis. An average of 3,500 bodies of deceased Bangladeshi nationals were repatriated each year, for which purpose the sum of 300,000 taka per body was withdrawn from the Wage Earners' Welfare Fund.

31. Labour attachés also conducted workplace inspections and took follow-up action when appropriate; every two years, they were required to complete an intensive five-day training course. Officials selected for overseas assignments generally underwent at least two months' training prior to being posted.

32. **Mr. Chowdhury** (Bangladesh) said that Bangladesh had been a member State of the International Labour Organization (ILO) since 1972 and had ratified seven of the eight fundamental ILO conventions. Before it could ratify a number of other conventions, including the ILO Domestic Workers Convention, 2011 (No. 189), the Government had to bring the nation's domestic legislation into line with those instruments and strengthen mechanisms for their implementation and monitoring.

33. The Government had signed a Decent Work Country Programme agreement with ILO and, on 21 December 2015, had adopted the Domestic Workers' Protection and Welfare Policy, which served as a framework for the protection of domestic workers, the overwhelming majority of whom were women and girls. The Policy called for the registration of domestic workers, set their minimum wage, provided for improvements in their living and working conditions and promoted compliance with regulations on maximum working hours.

34. Significant efforts had been made to strengthen the capacity of the Bangladesh labour inspectorate. In recent years, the number of the inspectorate's staff members had more than trebled, to 993. Nevertheless, given the socioeconomic situation of the country, it would take time to create the conditions necessary for the ratification of additional ILO conventions.

35. **Mr. Hossain** (Bangladesh) said that, through the implementation of the Overseas Employment and Migrants Act of 2013, the Government had been able to put a ceiling on migration costs. Recruitment agents who charged excessive fees were liable to punishment under section 31 of the Act; 16 cases relating to such agents were currently pending before the courts. An interministerial task force had been set up to monitor the implementation of the Act, and mobile courts were in operation.

36. Migration costs were gradually being reduced through a process of disintermediation. The Government had established a database of prospective migrant workers from which ideally, employers would recruit directly in the future. Moreover, a campaign had been launched to raise awareness of migrants' rights, and special arrangements had been made with some companies in Oman, Qatar, Saudi Arabia and the United Arab Emirates for the recruitment of Bangladeshi workers that did not involve any migration costs to the worker. Workers did, however, continue to face hidden costs in destination countries; it was

therefore important to increase cooperation with those countries in order to mitigate such costs.

37. Citizens working overseas could file complaints with the Ministry of Expatriates' Welfare and Overseas Employment, the relevant Bangladeshi mission abroad or the Bureau of Manpower, Employment and Training. Currently, the online complaints system was undergoing software updates. Complainants could choose to settle disputes through arbitration. Over the previous five years, the Bureau had received 1,412 complaints, which had resulted in the imposition of fines totalling some 49 million taka.

38. Probashi Kallyan Bank, a specialized financial institution, had been founded to provide loans and other financial facilities and services to migrant workers and members of their families. In addition, the capacity of the Ministry of Labour and Employment had been boosted through the creation of new departments and technical training centres, of which there were currently 70, with 40 more in the pipeline. The Wage Earners' Welfare Board had been established to provide dedicated services to migrant workers, including legal and repatriation assistance, and extra officials had been hired in the labour wings of Bangladeshi missions abroad.

39. The number of Bangladeshi women employed abroad stood at 593,000; of that number, 1,142 were living in Singapore. Women who intended to take up work overseas were required to enrol on a highly structured 30-day training course. In order to obtain migration clearance from the Bureau of Manpower, Employment and Training, prospective migrant workers had to register, which they could do even at the village level, and have their details added to the database of migration applicants. Thereafter, they were requested to provide fingerprints and to apply for a visa. Finally, they were required to undergo compulsory, country-specific pre-departure training. Following the completion of that training, they were asked to submit all the necessary documentation to the Bureau for its approval, which was typically granted within 24 hours. Successful applicants were given a smart card that contained pertinent information about them and their future employer.

40. **Mr. Ahmed** (Bangladesh) said that the bilateral agreements and memorandums of understanding signed by the Ministry of Expatriates' Welfare and Overseas Employment had not yet been made public but that proactive disclosure guidelines had been drawn up with a view to doing so in the near future. The Ministry had concluded memorandums of understanding with Jordan, Qatar, Saudi Arabia, the United Arab Emirates and Hong Kong SAR. A separate agreement had been reached with Saudi Arabia concerning women domestic workers. In more recent bilateral agreements, an effort had been made to promote the objectives of the Convention.

41. Shelters had been opened in several destination countries for women domestic workers, who had access to prompt legal services and psychological counselling. Consular officials were well aware of the delicate situation in which such women sometimes found themselves. A lack of legal protection in some destination countries exposed migrant workers to the risk of torture or other ill-treatment, although progress had been made in recent years, including in Qatar with regard to the *kafalah* system.

42. **Mr. Haque** (Bangladesh) said that the National Human Rights Commission was an independent body that was authorized to receive and handle complaints of rights violations. The Government was committed to boosting the human and financial resources available to the Commission, which had recently opened two regional offices in Khulna and Rangamati.

43. The Ministry of Law, Justice and Parliamentary Affairs vetted all bilateral agreements and memorandums of understanding, which were legally binding on the parties. The process of drafting delegated legislation took time, as it required considerable care and attention. The immigration bill was still under consideration by the Ministry of Home Affairs.

44. **Mr. Ahmed** (Bangladesh) said that Bangladesh received close to US$ 15 billion in remittances each year. A total of 1,088 drawing arrangements had been finalized between Bangladeshi banks and foreign exchange houses to simplify and expedite the flow and distribution of remittances. In addition, there were 34 Bangladeshi exchange houses or bank branches in destination countries, and the time limit for transferring remittances had been

reduced from 72 hours to two working days. The average cost of sending remittances to Bangladesh was 3.5 per cent of the amount to be transferred. The delay in submitting the initial report was attributable to the serious political unrest that had taken place in Bangladesh between 2012 and 2013.

45. **Mr. Haque** (Bangladesh) said that Bangladeshi migrant workers over the age of 18 years enjoyed the same civil and political rights as all citizens in Bangladesh, including the right to vote.

46. **Mr. Kariyawasam** said that he wished to know what steps had been taken to monitor the activities of recruitment agencies and labour brokers; whether brokers were required to register with recruitment agencies; and whether unannounced inspections were conducted to ensure that agencies complied with the rules laid down by the Government. The delegation should explain whether and how agencies and brokers were held accountable for failing to provide prospective migrant workers with the correct documentation; indicate how many cases had been filed on those grounds; and specify what their outcome had been. Could returning migrant workers bring cases against agencies or brokers, and, if so, how were those cases handled?

47. With regard to arbitration, he asked whether specific rules had been formulated and published, how settlements were reached and whether aggrieved parties were generally satisfied with the outcome. Lastly, he would appreciate information on any measures that the Government had adopted under the Prevention and Suppression of Human Trafficking Act of 2012. In particular, it would be helpful to know whether special anti-trafficking tribunals had been set up and, if not, when action to do so would be undertaken.

The meeting rose at 6 p.m.

United Nations CMW/C/SR.344

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Distr.: General
11 April 2017

Original: English

Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families
Twenty-sixth session

Summary record (partial)* of the 344th meeting
Held at the Palais Wilson, Geneva, on Tuesday, 4 April 2017, at 10 a.m.

Chair: Mr. Brillantes

Contents

Consideration of reports submitted by States parties under article 73 of the Convention (*continued*)

Initial report of Bangladesh (*continued*)

* No summary record was prepared for the rest of the meeting.

This record is subject to correction. Corrections should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of the present record to the Documents Management Section (DMS-DCM@un.org).

Any corrected records of the public meetings of the Committee at this session will be reissued for technical reasons after the end of the session..

GE.17-05454 (E) 100417 110417

1705454

Please recycle

The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 73 of the Convention (*continued*)

Initial report of Bangladesh (*continued*) (CMW/C/BGD/1; CMW/C/BGD/Q/1 and Add.1)

1. *At the invitation of the Chair, the delegation of Bangladesh took places at the Committee table.*

2. **Mr. Ahmed** (Bangladesh), replying to questions raised at the previous meeting, said that recruitment agencies were subject to strict regulation. A recruitment agency's failure to comply with the relevant regulations would render it liable to prosecution. In 2015 and 2016, some 20 licences had been revoked and 10 individuals had been prosecuted. When a recruitment agency was found to have been at fault, it was required to bear the cost of repatriation.

3. **Mr. Reza** (Bangladesh) said that 1,037 agents licensed to recruit migrant workers were currently active in Bangladesh. Furthermore, there was a State-run company, Bangladesh Overseas Employment Services Limited, that recruited migrant workers, and the Bureau of Manpower, Employment and Training was authorized by the Government to recruit migrant workers. Under section 9 of the Overseas Employment and Migrants Act of 2013, recruitment agents were required to obtain a licence from the Government. Section 10 of the Act barred persons convicted of certain offences, including offences relating to trafficking in persons and money-laundering, from obtaining the necessary licence. Licences were valid for an initial period of three years and could be renewed, provided that certain conditions were met. Under section 13 of the Act, the Government had the power to cancel or suspend a licence at any time. Section 15 of the Act established the duties of the recruitment agent, namely, to protect the interests of migrant workers; to produce the migrant worker for registration under section 19 of the Act, if necessary, and collect his or her migration clearance; and to employ the migrant worker in the job offered, provide wages and other benefits, ensure good workplace conditions in accordance with the terms and conditions of the employment contract and maintain communication with the employer for those purposes.

4. The Bureau of Manpower, Employment and Training operated a monitoring system and oversaw several committees that regularly conducted monitoring visits. The Vigilance Task Force and mobile courts also conducted monitoring visits. In 2015, standard operating procedures for monitoring the recruitment system for migrant workers had been developed with technical assistance from the International Organization for Migration. There were plans to introduce a new, online monitoring system.

5. With regard to arbitration, the Bureau of Manpower, Employment and Training had a complaint management unit. Victims and their relatives were able to submit complaints online. Once a complaint had been received, the recruitment agent concerned was blocked from the migration management system pending the outcome of the arbitration process. Both parties were summoned before a committee with a view to enabling them to reach an amicable settlement. In cases in which recruitment agents were found to have been at fault, the Bureau recommended that their licences should be revoked or that they should forfeit the money that they had deposited with the Bureau, which would serve as compensation for the victim. Over the previous five years, the Bureau had received 1,412 complaints, 49 million taka (Tk) had been paid and criminal proceedings had been brought in 16 cases. Some victims had submitted complaints directly to the Vigilance Task Force; over the previous five years, it had received 34 complaints.

6. **Mr. Ahmed** (Bangladesh) said that it was a criminal offence to act as a broker or intermediary, and measures had been taken to ensure the prosecution of persons who did so.

7. **Mr. Reza** (Bangladesh) said that, to eliminate the involvement of intermediaries in the recruitment of migrant workers, efforts were being made to ensure that migrant workers were recruited exclusively via the centralized database.

8. **Mr. Ahmed** (Bangladesh) said that female migrant workers with children generally left their children in Bangladesh. Perpetrators of offences against children were prosecuted under the Children's Act of 2013.

9. **Mr. Islam** (Bangladesh) said that the children of migrant workers living abroad were entitled to education and health care.

10. **Mr. Haque** (Bangladesh) said that the Government operated a number of overseas schools for the children of migrant workers. There were nine such schools in Saudi Arabia alone.

11. **Mr. Ahmed** (Bangladesh) said that the 2006 Bangladesh Labour Act, as amended in 2013, prohibited the employment of children aged under 14 years; the age was raised to 18 years in the case of hazardous occupations. The compulsory registration of births pursuant to the Birth and Death Registration Act of 2004 served to strengthen efforts to prevent the employment of children.

12. **Mr. El-Borai** said that he wished to recall that any State party, including a State of origin, could submit communications under articles 76 and 77 of the Convention. It would be helpful to learn whether nationals of Myanmar were subject to a special legal regime under the Constitution or under national legislation, as, if they were not, they would be subject to the provisions of the Convention, and whether the bilateral agreements signed with other States provided for a solution to the problems presented by the *kafalah* system. Lastly, he wished to know whether the technical process by which laws were amended was in line with the Convention.

13. **Mr. Kariyawasam** (Country Rapporteur) said that it was important to ensure that the various systems developed to protect migrant workers were implemented in an effective manner. He would be grateful if the delegation could respond to reports that workers migrating to Singapore were required to pay fees equivalent in value to several multiples of their annual wages. In that connection, he wished to know whether a system had been developed to set a maximum fee for each country of employment and, if it had not, what the delegation made of the idea. The delegation was invited to comment on reports that the fees charged for training courses for Bangladeshi nationals seeking to work in Singapore were four times higher in Bangladesh than in Singapore itself.

14. It would be helpful to learn whether the State party planned to take measures to enable Bangladeshi nationals living abroad to vote in general elections. Further information on the rules governing the transfer of nationality from a Bangladeshi mother to her children would be appreciated, as there was some confusion regarding the situation of children born before 2009. Lastly, he wished to know whether any rules had been established for the process of arbitration between migrant workers and recruitment agencies and, if they had, whether they had been published or whether there were any plans to publish them in the future.

15. **Ms. Dzumhur** (Country Rapporteur) said that she wished to know why the State party had not ratified the 1951 Convention relating to the Status of Refugees and whether it had ratified the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime. It would be helpful if the delegation could provide a specific example to illustrate the procedure that a Bangladeshi national was required to undergo to become a migrant worker. In particular, it would be useful to learn what steps such a person was required to take, what costs he or she was required to bear and whether the education and training courses provided prior to departure differed depending on the prospective country of employment.

16. It would be interesting to know how many recruitment agencies had had their licences revoked, how many complaints had been received regarding their work, what complaint mechanisms were available to migrant workers living abroad and how long it took for complaints submitted through those mechanisms to be dealt with. With regard to the remedies available to migrant workers, she would appreciate more information on the work of mobile courts, any other efforts made to improve the accessibility of the legal system and the registration of children born to registered refugees. Was it possible for non-

Bangladeshi parents to register a child if only one or neither of them was a registered refugee?

17. She would be grateful for information on the number of cases filed up to the end of 2016 under the Overseas Employment and Migrants Act of 2013 and the Prevention and Suppression of Human Trafficking Act of 2012 and for an update on the status of those cases, including information on the obstacles encountered. In the light of the findings of a recent report on migration governance, she wished to know what mechanisms had been introduced to eliminate irregularities and corruption and what measures had been taken to make the public better aware of those mechanisms. Information on the number and content of training courses organized for government officials would be appreciated.

18. **Mr. Ceriani Cernadas** said that, while recruitment fees had been abolished for domestic workers, they remained in place for other categories of migrant workers and were in some cases extremely high. In that connection, he wished to know whether there were any plans to exempt further categories of migrant workers from having to pay recruitment fees and, if so, how far advanced those plans were; what standards had been set to monitor the fees charged by recruitment agencies and to what extent had the rights of migrant workers been taken into account in the development of those standards; what measures had been taken to verify the documentation submitted by recruitment agencies; and whether the online database of recruitment agents could be used to verify the information submitted by individual agents and establish that a particular agent was operating without a licence. He noted that some States paid recruitment fees on behalf of their migrant workers, which could be a solution for Bangladesh, as remittances from migrant workers made a major contribution to the national economy.

19. With regard to access to justice, he would be grateful for more detailed information on any relevant cases involving migrant workers, both those resolved through the courts and those resolved through arbitration. He wished to know whether there had been cases in which the mechanisms in place had resulted in recruitment agencies having their licences revoked or their applications for the renewal of a licence rejected. In addition, it would be helpful to know whether the State party was currently negotiating bilateral agreements relating to the rights of migrant workers with other States, which other States were involved, what time frame had been set for the ratification of those agreements and to what extent civil society and international organizations had been involved in the process.

20. He would welcome both qualitative and quantitative information on Bangladeshi migrant workers held in detention centres in countries of employment, including information on the conditions of their detention, the reasons for their detention or deportation and the specific policies adopted to ensure that they received the appropriate legal and consular assistance.

21. He wished to know what proposals had been made to bring the Foreigners Act of 1946 into line with the Convention and what mechanisms and programmes had been implemented to ensure that returning migrant workers were able to reintegrate. Further information on the provision of education and health care for the children of migrant workers would be appreciated. Did such children experience adverse outcomes? It would be helpful to learn what policies had been implemented to protect the rights of Rohingya persons in Bangladesh, whether any cases of corruption relating to the conduct of the pre-departure procedure had been reported and, if they had, how they had been resolved. Lastly, he wished to know what mechanisms had been implemented to ensure that the family members of a migrant worker who had died overseas — and whose death was attributable to a deprivation of his or her rights — had access to justice and reparation, including claim, inter alia, to any unpaid wages. In addition, statistics on the implementation of those mechanisms would be appreciated.

The meeting was suspended at 11 a.m. and resumed at 11.20 a.m.

22. **Mr. Haque** (Bangladesh) said that the Government was working to reintegrate returning migrant workers. The Expatriate Welfare Bank, for example, had been established to grant loans to returning migrant workers on generous terms. Owing to the experience and expertise that they had acquired, returning migrant workers had a greater chance of securing work overseas again in the future.

23. With regard to the processing of complaints, some 3 million cases were pending in the national judicial system. Over the previous five years, additional judges had been appointed to increase the capacity of the courts. Moreover, alternative dispute resolution mechanisms had been introduced and were expected to be made compulsory with a view to reducing the burden on the courts.

24. All citizens aged over 18 years, including those living overseas, could register to vote. Any citizen of Bangladesh present in the country on the day of an election could cast a vote. Consideration was being given to the possibility of allowing citizens to cast their vote overseas, but it would take time to establish the necessary facilities.

25. A database of nationals of Myanmar present in Bangladesh was being set up with information disaggregated by age, sex and other criteria. The children of refugees were registered in line with the Birth and Death Registration Act of 2004. The 2009 amendment to the Citizenship Act relating to the right of Bangladeshi women to transfer their nationality to their children had a retroactive effect and, as far as he was aware, no cases involving children born before the entry into force of that amendment were pending.

26. With regard to arbitration, he wished to draw attention to the work of the Bangladesh International Arbitration Centre, which had been established with the support of the Government. Although the Centre mainly handled commercial cases, it offered an example of a mechanism by which disputes could be resolved independently of the courts. Persons of limited means and persons belonging to specific vulnerable groups, including those living in rural areas, were entitled to legal aid under the Legal Aid Act of 2000. In that connection, an online legal help desk had been set up and plans were in place to increase the funding made available for the provision of legal aid.

27. Pursuant to the Anti-Corruption Commission Act of 2004, an independent commission had been set up to handle all relevant criminal cases involving corruption. No refugees or undocumented migrants from Myanmar had been taken into custody under the Foreigners Act of 1946 other than those that had committed certain offences.

28. **Mr. Islam** (Bangladesh) said that Bangladeshi migrant workers were both greatly appreciated and respected by the Government. Efforts were made to protect the welfare of their families and their children were given priority in the education system. Any complaints lodged by migrant workers abroad were fully investigated. Work permits issued by the State of employment were systematically verified by the Government. Seeking work abroad was actively encouraged on the grounds that it was economically beneficial to both countries involved. Local migrant workers who earned less than Tk 200,000 per year and Bangladeshis working abroad were exempt from income tax. Local migrant workers who earned over Tk 200,000 per year were subject to progressive tax rates, but the deadlines for payment were fairly flexible.

29. **Mr. Haque** (Bangladesh) said that the provisions of the Convention had been reflected in the Overseas Employment and Migrants Act of 2013 and would continue to be incorporated into national legislation and regulations. Training on issues relating to migration was provided by the Government, in collaboration with civil society organizations, to public officials at all levels and to some professionals in the private sector, including lawyers and judges.

30. Bangladesh was not yet in a position to ratify the other international instruments that had been mentioned, but it was working to increase its compliance with their provisions in preparation for ratification. Progress was being made to that regard under the Vision 2021 strategy and in the light of national development goals, such as the target that Bangladesh would no longer be defined as a middle-income country by 2041.

31. Violations of the Overseas Employment and Migrants Act of 2013 were covered by the Mobile Courts Act of 2009, under which perpetrators were brought to justice promptly without lengthy court proceedings. Media coverage of convictions under that Act had helped to discourage criminal activity.

32. **Mr. Ahmed** (Bangladesh), making reference to paragraphs 75 to 78 of the State party's replies to the list of issues (CMW/C/BGD/Q/1/Add.1), said that various measures had been taken to combat trafficking in persons, including the implementation of a national

action plan by the Ministry of Home Affairs and the establishment of district committees for the prevention and detection of trafficking in persons, which were now fully operational. Legal assistance had been provided to 79 victims of trafficking. A joint task force had been set up with India to improve and accelerate the procedures relating to the identification and repatriation of victims. A memorandum of understanding had been signed with India in June 2015 on bilateral cooperation for the prevention of trafficking in women and children and for the repatriation and reintegration of victims of trafficking. The Border Guard Bangladesh uniformed force planned to train 5,000 guards in border control to combat the smuggling of migrants and human trafficking.

33. Before departing for employment abroad, Bangladeshis were required to pay only US$ 15 to the public treasury and US$ 43 to the migrant workers' welfare fund. Most workers who sought employment in Singapore were skilled and therefore did not face high training costs. In the light of target 10.7 of the Sustainable Development Goals, the Government had drawn up an action plan to reduce migration costs to a maximum of three months' wages by 2030.

34. A total of 2,966 cases had been filed under the Prevention and Suppression of Human Trafficking Act of 2012; 192 of those cases had been resolved, with 30 resulting in convictions. Efforts were being made to raise awareness of the remedies available under that Act.

35. **Mr. Hossain** (Bangladesh) said that Bangladeshi migrant workers could lodge complaints with the labour welfare wing of the Bangladeshi mission in the State of employment. Complaints against recruitment agencies could be filed directly with the Ministry of Labour and Employment or with the Bureau of Manpower, Employment and Training.

36. Most employment contracts between migrant workers and employers stipulated that the cost of repatriation in the event of death should be covered by the employer. In all other cases, the cost was covered by the migrant workers' welfare fund. Compensation in the event of death could be applied for through the labour welfare wing of the relevant Bangladeshi mission, which would bring the case before the competent court in the State of employment. In some cases, significant amounts of compensation had been obtained.

37. Migrant workers could be recruited in a number of ways, including through a private recruitment agency or through Bangladesh Overseas Employment Services Limited. The Ministry of Labour and Employment forwarded any request for workers from a State of employment to the relevant Bangladeshi mission. The mission's labour welfare wing was responsible for examining the request and submitting a report to the Ministry of Labour and Employment, which then recruited workers through its electronic database or by publishing an announcement in the newspaper.

38. After the recruitment process had been completed, the employer obtained visas for the workers and provided copies of all necessary documents to the Ministry of Labour and Employment and the relevant mission. The names and fingerprints of all workers were registered in the Ministry's database. The Ministry issued emigration clearance in the form of a smart card following verification of the visas. The applicable fees were divided between the employer and the recruitment agency. The workers' smart cards were checked at the airport prior to departure. To date, 89 recruitment agencies had been suspended for fraudulent activities, and fines totalling Tk 49 million had been imposed.

39. **Mr. Haque** (Bangladesh) said that efforts to conclude bilateral agreements with States of employment were ongoing. It was not easy to ensure that those agreements reflected the provisions of the Convention because many States of employment were not yet parties to the Convention. So far, 13 agreements of that kind had been signed; there had been no direct reference to the *kafalah* system in those agreements.

40. **Ms. Landázuri de Mora** said that she would like the delegation to comment on reports that undocumented nationals of Myanmar, including children, were frequently subjected to sexual and gender-based violence and to sexual and labour exploitation in the State party and that Indian migrant workers, including children, were subjected to debt

bondage in the brick kiln sector and to forced labour in the tea industry in north-east Bangladesh.

41. **Mr. Haque** (Bangladesh), recalling the history of the tea gardens under British rule, said that the tea industry workers in the north-east of the country were Bangladeshis of Indian descent rather than Indians and therefore could not be considered migrant workers under the terms of the Convention. The Government had not received any reports of ill-treatment concerning Myanmar nationals.

42. **Ms. Landázuri de Mora** said that the Committee had received several reports on those issues and wished to alert the Government to the allegations of abusive practices.

43. **Mr. Ahsan** (Bangladesh) said that, in the light of recent reports published by the Office of the United Nations High Commissioner for Human Rights and the Special Rapporteur on the situation of human rights in Myanmar, a census was being conducted to determine the number of undocumented Myanmar nationals in Bangladesh. Inasmuch as the country was already densely populated and faced resource constraints, the Government was unable to grant an official status to undocumented persons from Myanmar. It was important to distinguish between those persons and refugees who had been registered in camps. They could not be considered migrant workers under the terms of the Convention.

44. **Mr. Kariyawasam**, noting that Bangladesh had become both a State of origin and a State of employment, said that some issues concerning migrant workers in the State party had not been fully addressed. At the same time, the country's rapid socioeconomic development had paved the way for better protection of the rights of migrant workers. The Government was clearly committed to the principles enshrined in the Convention but faced challenges when it came to implementing the Convention on the ground. The Committee would endeavour to make recommendations that would add value to the Government's efforts. He was pleased to hear that Bangladeshi migrant workers were prized by the Government and he welcomed the plan to reduce migration costs to a maximum of three months' wages. By achieving that target, Bangladesh would set an example for other countries around the world.

45. **Ms. Dzumhur** said that, when drawing up policies, the Government should take into account the large number of Bangladeshi migrant workers abroad and the impact of their remittances on the country's economic sustainability. She was concerned by the lack of women on the delegation and wished to emphasize the importance of sending a gender-balanced delegation to demonstrate the country's commitment to gender equality. She welcomed the legislation on migration that had been introduced in recent years and encouraged the Government to ensure that all by-laws were in line with that legislation. Given the cost of supervising recruitment agencies and following up on complaints filed against them, it might be more efficient to nationalize all agencies of that kind.

46. **Mr. Ahsan** (Bangladesh) said that he welcomed the Committee's comments and advice. The Government firmly intended to continue building on the considerable socioeconomic progress that had been made since the country had gained independence. It would endeavour to send a gender-balanced delegation to present the subsequent periodic report. In recognition of the contribution of Bangladeshi migrant workers to the national economy, the Government had declared 18 December as International Migrants Day.

47. **Mr. Islam** (Bangladesh) said that his country was fully committed to improving its implementation of the Convention, based on the Committee's recommendations and in cooperation with the Committee, international organizations, civil society, other States parties and States of employment. The Government planned to increase the transparency and efficiency of the recruitment system, introduce an insurance scheme for migrant workers and improve welfare services for migrant workers and their families in Bangladesh, focusing in particular on health, education and housing. Having already set up many accredited schools for Bangladeshi workers and their families in Saudi Arabia, it was considering establishing a system that would enable migrant workers abroad to build their own houses and setting up a hospital for the families of migrant workers in Bangladesh.

48. **The Chair**, associating himself with the statement made by Mr. Kariyawasam, said that the State party's efforts to protect the rights of migrant workers and to provide

assistance to nationals in overseas employment were exemplary and that its rapid socioeconomic development was commendable. It was laying the groundwork for the future global compact for safe, orderly and regular migration.

49. **Mr. Islam** (Bangladesh) said that he encouraged the Committee to visit Bangladesh to witness the efforts that were being made to implement the Convention. Lastly, it should be noted that there was no discrimination against women in his country; on the contrary, women were treated with great respect.

The discussion covered in the summary record ended at 12.45 p.m.

United Nations CMW/C/SR.345

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Distr.: General
12 April 2017

Original: English

Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families
Twenty-sixth session

Summary record (partial)* of the 345th meeting
Held at the Palais Wilson, Geneva, on Tuesday, 4 April 2017, at 3 p.m.

Chair: Mr. Brillantes

Contents

Consideration of reports submitted by States parties under article 73 of the Convention (*continued*)

Examination of the implementation of the Convention by Jamaica in the absence of a report

* No summary record was prepared for the rest of the meeting.

This record is subject to correction. Corrections should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of the present record to the Documents Management Section (DMS-DCM@un.org).

Any corrected records of the public meetings of the Committee at this session will be reissued for technical reasons after the end of the session.

GE.17-05456 (E) 120417 120417

1705456

Please recycle

The discussion covered in the summary record began at 3.30 p.m.

Consideration of reports submitted by States parties under article 73 of the Convention *(continued)*

Examination of the implementation of the Convention by Jamaica in the absence of a report (CMW/C/JAM/QPR/1)

1. *At the invitation of the Chair, the delegation of Jamaica took places at the Committee table.*

2. **Ms. Gordon** (Jamaica) said that the protection of the human rights of all Jamaicans had been enshrined in the Jamaican Constitution since 1962. That protection had been further enhanced by the adoption in 2011 of the Charter of Fundamental Rights and Freedoms. Jamaica was a signatory to a number of treaties and conventions that set out guiding principles on migration. In addition to the Convention on the Protection of All Migrant Workers and Members of Their Families, they included such instruments as the International Covenant on Economic, Social and Cultural Rights and the International Labour Organization (ILO) Migration for Employment Convention (Revised), 1949 (No. 97).

3. Jamaica had a long history of labour migration as a country of origin, transit and destination. Owing to a lack of local opportunities, Jamaican workers emigrated in search of work to such countries as Cuba, Panama, the United States of America, Canada, and the United Kingdom of Great Britain and Northern Ireland, while workers from other countries were recruited to fill gaps in the Jamaican labour market, particularly in the areas of nursing and teaching.

4. The legislative framework that formed the basis of the labour migration policy of Jamaica included nine main statutes: the Foreign Recruiting Act of 1875, the Recruiting of Workers Act of 1940, the Deportation (Commonwealth Citizens) Act of 1942, the Immigration Restriction (Commonwealth Citizens) Act of 1945, the Aliens Act of 1946, the Employment Agencies Regulation Act of 1957, the Caribbean Community (Free Movement of Skilled Persons) Act of 1997, the Foreign Nationals and Commonwealth Citizens (Employment) Act of 1964 and the Trafficking in Persons (Prevention, Suppression and Punishment) Act of 2007.

5. Six ministries and agencies had primary responsibility for matters relating to migration. They were the Ministry of National Security, including the Jamaica Constabulary Force; the Ministry of Justice; the Ministry of Labour and Social Security; the Ministry of Foreign Affairs and Foreign Trade; and the Passport, Immigration and Citizenship Agency. The Ministry of Labour and Social Security was mandated to protect the rights of Jamaican workers at home and overseas, and to inform workers and employers of their rights and duties under Jamaican labour legislation. It also issued work permits to foreign workers, managed the circular migration of Jamaican workers for temporary employment under the Jamaican Government's Overseas Employment Programme and licensed, regulated and monitored private employment agencies that recruited workers for short-term employment, both in Jamaica and overseas.

6. The Ministry of Foreign Affairs and Foreign Trade offered consular support to Jamaican nationals living abroad and, together with the Ministry of Labour and Social Security, managed the Jamaican Liaison Service, which had offices in Canada and the United States and provided welfare and protection services to Jamaican workers participating in the Overseas Employment Programme. The responsibilities of the Service included monitoring the employment situation of Jamaican migrant workers, helping them to secure proper housing and ensuring that they had adequate health care and coverage for occupational accidents or illnesses.

7. The Overseas Employment Programme had contributed to Jamaica's social and economic development for over 60 years, alleviating high unemployment, particularly in rural areas, and providing a stable source of income to thousands of families. Through the Programme, which had benefited 14,844 individuals in 2015 and 2016, Jamaican workers

had been able to find seasonal or temporary employment in the agriculture and hospitality sectors in Canada and the United States.

8. The conditions under which migrants were admitted to, or deported from, Jamaica were governed by the Immigration Restriction (Commonwealth Citizens) Act, the Deportation (Commonwealth Citizens) Act and the Aliens Act. Migrant workers who wished to work in Jamaica were required to obtain a work permit or a work permit exemption before entering the country. Under the Foreign Nationals and Commonwealth Citizens (Employment) Act, prospective employers in Jamaica were required to demonstrate that they were unable to find workers with the appropriate skills locally and to ensure that local workers shadowed foreign migrants as a way of facilitating the transfer of knowledge. In 2015 and 2016, the Government had issued 4,545 work permits, 3,806 of which had been allocated to persons in the "professionals, senior officials and technicians" occupational category. During that period, the largest number of permits (1,810) had been issued to workers from Latin America.

9. The activities of foreign recruitment agencies were monitored under the Foreign Recruiting Act, which empowered the Government to prohibit or limit the recruitment of Jamaican nationals for employment overseas. Employment agencies were monitored under the Employment Agencies Regulation Act, the aim of which was to prevent the exploitation of jobseekers. Under that Act, the Ministry of Labour and Social Security issued licences to eligible agencies, monitored the latter's activities for compliance with regulations, investigated complaints against such agencies and closed down those that were operating illegally.

10. Jamaica was a member State of the Caribbean Community (CARICOM), which had been established in 1973 by the Treaty of Chaguaramas. Nationals of a CARICOM country who qualified under the Caribbean Community (Free Movement of Skilled Persons) Act were exempt from the requirement to obtain a work permit in order to work in other CARICOM member States and could move freely to those States and enjoy the same rights and privileges as their citizens. CARICOM nationals who fell into any of the approved occupational categories could apply for a document known as a "certificate of recognition of CARICOM skills qualification".

11. The Recruiting of Workers Act protected workers who were recruited in Jamaica for employment at home and overseas by stipulating the obligations of recruiters, including provisions governing the repatriation of a recruited worker, where necessary. Under the Caribbean Community (Free Movement of Skilled Persons) Act, pension contributions could be aggregated and benefits provided to eligible persons from a Caribbean Community member State. The Ministry of Labour and Social Security was responsible for coordinating activities to ensure that the objectives of CARICOM Social Security Reciprocal Agreements, which had been concluded with Canada and the United Kingdom, were met.

12. Participants in the Seasonal Agricultural Workers Programme in Canada made weekly contributions to the Jamaican National Insurance Scheme through withholdings from their salaries. Efforts were being made to reinstate a similar arrangement for seasonal agricultural workers travelling to the United States that had been discontinued in 2010. The families in Jamaica of workers participating in short-term overseas employment programmes were assisted by the Ministry of Labour and Social Security. Social workers conducted routine visits to the home of migrant workers' families in order to assess their living conditions and, where necessary, provide counselling, guidance and information. The social workers also ensured that migrant workers' children attended school, received financial, medical and emotional support, and, where appropriate, were referred to social and economic support programmes.

13. Jamaica was a signatory to several human rights instruments concerned with the prevention of trafficking in persons. In 2011, it had also ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. It had also adopted and updated anti-trafficking legislation, including the Trafficking in Persons (Prevention, Suppression and Punishment) Act. As a sign of its commitment to eliminating human trafficking, the Government had set up a National Task Force Against

Trafficking in Persons, which was responsible for coordinating anti-trafficking programmes. The Task Force, which was made up of representatives of a wide range of government agencies, was working closely with other agencies to prepare a national strategic plan, develop a high school curricular module on human trafficking and formulate an anti-trafficking policy.

14. **Mr. Ceriani Cernadas** (Country Rapporteur) said that the constructive dialogue between the Committee and the delegation from the State party would have benefited greatly from the submission of the country's initial report. In view of the fact that the State party's legislation governing migration and the protection of migrant workers had been adopted many years previously and that the nature of migration had changed considerably in the intervening period, he asked what steps the State party was taking to harmonize its legislation with the Convention and the other treaties relating to the rights of migrant workers that it had ratified.

15. **Ms. Dzumhur** said that she wished to know whether the Government would consider making the declarations provided for in articles 76 and 77 of the Convention. She asked whether a system was in place for gathering data on migrant workers that would facilitate the preparation of strategic plans and measures relating to migration; whether an independent monitoring system for the Convention or a national human rights institution had been established; and what channels the Government used to communicate with citizens and independent bodies.

16. **Mr. Ceriani Cernadas** asked what steps were being taken to create a comprehensive policy that addressed all the interconnected issues covered by the Convention.

17. **Ms. Dicko**, noting that six different ministries and agencies were responsible for policy concerning migration, said that she would welcome information on whether a framework was in place to coordinate all the various policies that they formulated. She asked whether, and how, public servants, judicial personnel and other persons working in areas related to migration had been informed of the State party's ratification of the Convention and the rights enshrined in it. Were those migrant workers who were protected by the Convention aware of its existence and of the rights that it granted them?

18. **Mr. Kariyawasam** said that he wished to know whether, and in what ways, civil society organizations contributed to the formulation and implementation of policy on migration and the dissemination of the Convention to the general public. He asked whether the implementation of new policies on migration in the United States would adversely affect Jamaican migrant workers and whether the Government was preparing to address any problems that might arise in that regard.

19. **Ms. Ladjel** said that she would like to know why, under the Immigration Restriction (Commonwealth Citizens) Act and the Aliens Act, disability was included among the criteria used to determine whether an individual could enter and remain in Jamaica. Were distinctions drawn between different types of disability, and were those criteria applied to children with disabilities who were migrating to Jamaica with their parents?

20. **Mr. Ceriani Cernadas** said that he would welcome further information on migrants who had been forced to leave the State party because they had been subjected to discrimination on the basis of their sexual orientation or gender identity. He asked whether migrant workers, both Jamaican nationals employed overseas and foreign nationals working in Jamaica, had access to justice and were able to submit complaints and obtain reparation if their rights were violated.

21. **Mr. Ünver** said that he wished to know what steps were being taken to combat racism against foreign migrant workers in Jamaica and Jamaican nationals working overseas. He asked whether the children of migrant workers in Jamaica were protected against discrimination and afforded equal access to education.

22. **Mr. Ceriani Cernadas**, noting that migrants appeared to be routinely detained under section 9 of the Aliens Act, said that he would welcome further qualitative and quantitative information on the places, conditions and periods of such detention; the procedures followed when migrant workers were detained; and the extent to which they

could exercise their right to access justice and challenge detention orders. He would also welcome information on situations in which migrant workers had been expelled, the reasons for those expulsions, the expulsion procedures followed and the safeguards that were made available to individuals faced with expulsion. Specific information should be provided on the procedures that had been employed, in recent years, to expel Haitian nationals. He requested further information on the consular support mechanisms that had been established to protect the rights of Jamaican migrant workers abroad who faced the possibility of being detained or expelled or to inform such workers of their labour rights.

23. **Mr. El-Borai** said that he wished to know whether, in accordance with articles 45, 46 and 47 of the Convention, migrant workers in Jamaica enjoyed working conditions and labour rights that were no less favourable than those afforded to Jamaican nationals. In view of the fact that the State party had ratified the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), he asked whether migrant workers in Jamaica enjoyed trade union rights. Lastly, he asked whether such workers enjoyed the right to social security.

24. **Ms. Landázuri de Mora** said that she would welcome further information on the procedure for registering the nationality of children born in Jamaica to documented or undocumented migrant workers.

25. **Ms. Castellanos Delgado** (Country Rapporteur) said that she wished to know whether migrants with irregular immigration status in Jamaica were removed immediately or were allowed to remain in the country and seek employment. She requested statistical information on the number of such migrants in Jamaica and their countries of origin. Lastly, she asked whether the children of undocumented migrant workers had the right to receive an education.

The meeting was suspended at 4.20 p.m. and resumed at 4.55 p.m.

26. **Ms. Gordon** (Jamaica) said that the Government had traditionally emphasized the protection of workers' rights, and its labour laws were quite sophisticated in many respects. Before becoming a party to any international treaty, all relevant legislation was reviewed to determine whether it needed to be amended or whether new legislation was required. The Ministry of Foreign Affairs and Foreign Trade served as a focal point for the interministerial committee on human rights, which oversaw the implementation of the human rights obligations undertaken by Jamaica, including those related to migration.

27. A number of efforts had been made to improve the protection of all workers and to ensure that deficiencies in national legislation were identified and addressed. Policies had been formulated to deal with workplace discrimination faced by women and other vulnerable groups, including persons with disabilities and persons living with HIV/AIDS. To that end, the National Workplace Policy on HIV and AIDS and the life-threatening illnesses policy had been established. The Disabilities Act of 2014, which had been adopted but had not yet entered into force, was aimed at ensuring that the interests and rights of persons with disabilities were promoted, protected and enhanced.

28. The Government was not opposed to making the declaration provided for in article 77 of the Convention, and information regarding the declaration provided for in article 76 would be transmitted to the Committee at a later date. A national human rights institution would be established as soon as legislation had been enacted to expand the powers of the Office of the Public Defender. The absence of a national human rights institution did not signify that there was inadequate protection for migrant workers in Jamaica.

29. Work had been completed on a draft national policy and plan of action on international migration and development, which was aimed at promoting a better common understanding of the linkages between the two, particularly within the context of globalization, and the need to maximize the benefits of international migration. The policy emphasized the importance of implementing measures to safeguard the rights of migrants and identified specific actions to promote the increased involvement of Jamaican migrants in international development. Existing pre-departure orientation programmes in Jamaica had been strengthened, and reintegration exercises were conducted at the end of overseas work programmes. The Ministry of Labour and Social Security had also increased

awareness among migrant workers and their families of the potential for remittances to contribute to savings and investment.

30. The promotion of regional cooperation among CARICOM member States was critical to addressing migration-related issues. The Foreign Nationals and Commonwealth Citizens (Employment) Act had been updated, as had the Caribbean Community (Free Movement of Skilled Persons) Act, which had been amended to cover all categories of skilled workers who were eligible to seek work in Jamaica. Citizens of CARICOM countries did not need a work permit in order to work in Jamaica and could, for example, exercise the right to establish a business and enjoy the free movement of capital in the State party. Recognized skilled workers who were nationals of a CARICOM country were allowed to remain in Jamaica indefinitely, whereas all other nationals of such countries were authorized to stay for a maximum of six months.

31. All services pertaining to labour migration were provided to all Jamaican citizens and foreign migrants in Jamaica without distinction and irrespective of sexual orientation. Jamaican laws protecting workers against non-discrimination, including racism, were broad and covered all employees of all nationalities. Labour officers of the Ministry of Labour and Social Security were responsible for visiting workplaces to ensure proper observance of labour laws. In the event of a breach, labour officers could intervene on behalf of the workers, advise them to take legal action or help them to obtain redress when an employer failed to take the required remedial action.

32. In order to inform workers of the available measures for remedying a violation of their rights, the Government had issued guidelines and bulletins through the Jamaica Information Service, the printed media and the radio. All workers were encouraged to file complaints with the Ministry when their rights were infringed, including in cases relating to, inter alia, remuneration, conditions of work or an employer's failure to provide notice prior to the termination of an employment contract.

33. Through the Ministry of Foreign Affairs and Foreign Trade, Jamaican consular staff provided support to Jamaican nationals working overseas, as well as assistance in the event of emergencies, such as natural disasters. When a Jamaican migrant worker was arrested or detained in another country, the staff of Jamaican overseas missions protected the worker's welfare by notifying his or her next of kin, conducting a visit to the place of detention and providing the worker with information about available legal services. Jamaican migrant workers had not often been subject to deportation from the countries in which they worked, although some Jamaican nationals who had served prison sentences overseas had faced deportation.

34. Under the joint administration of the Ministry of Labour and Social Security and the Ministry of Foreign Affairs and Foreign Trade, the Jamaican Liaison Service with offices in Canada and the United States provided welfare services to Jamaican migrant workers. The Service negotiated terms and conditions of employment, provided advice for prospective employers, maintained dialogue with workers' associations and advocacy groups, handled disputes between workers and employers, and provided workers with guidance before and after their arrival in the destination country. The Service's staff scheduled visits to companies in order to maintain good relations between employers and workers and conducted investigations into reports of violations of workers' rights. In addition, the respective departments of labour of Canada and the United States could conduct integrity audits to ensure compliance with the provisions of employment contracts issued in their countries, including those of migrant workers.

35. **Ms. Dzumhur** said that Governments should prepare their citizens for work abroad by providing them with information about migration destination countries. It would be useful to have further information about pre-departure training in Jamaica, including which body was responsible for organizing it, how it was funded and what kind of information it provided.

36. **Mr. Ceriani Cernadas** said that he would appreciate further information on the initiatives that had been introduced to enable Jamaican migrant workers to vote in Jamaican elections from overseas and the voting procedure used. He asked whether Jamaican migrant workers were eligible to vote in all Jamaican elections.

37. **Ms. Castellanos Delgado** said that migrant workers' remittances to their home countries bolstered their national economies. In some countries, the national government retained a portion of remittances or instituted programmes to use those remittances to help local communities. As most Jamaican migrant workers migrated alone, she asked whether any programmes had been established in order to assist their families who stayed behind in Jamaica or to help those families make optimum use of the remittances they received. It would also be useful to know whether migrant workers incurred costs when sending remittances to Jamaica.

38. **Ms. Ladjel** requested further information on the National Action Plan to Eliminate Child Labour and asked whether the Plan provided general protection for children from such social ills as school dropout, abandonment, ill-treatment and abuse. It would also be helpful to know whether the Plan was accompanied by a normative framework or whether a specific law on child protection had been adopted in the State party.

39. **Ms. Dicko** said that recruitment agencies played a key role in implementing policies relating to migrant workers. It would be helpful to have further details on the organizational structure of recruitment agencies, the mechanism used for their accreditation and their role in implementing the Convention. She asked whether employment agreements were concluded between Jamaica and migrant workers' countries of origin or between recruitment agencies and prospective employers.

40. **Mr. Ceriani Cernadas** said that he wished to have further information on the specific programmes and measures that had been adopted in order to facilitate the reintegration of returning Jamaican migrant workers. He asked whether there was any dialogue or cooperation between State bodies and civil society organizations, such as the National Organization of Deported Migrants, in order to combat the social stigmatization that negatively affected some returning Jamaicans and their prospects for reintegration.

41. **Ms. Castellanos Delgado** said that undocumented migrants contributed greatly to the economies of their host countries and often performed jobs that nationals of those countries found undesirable. She asked whether the State party had set up mechanisms to protect such migrants in its territory and requested information about the nation's deportation regulations.

42. **Mr. Tall** said that the Committee had been informed about a number of cases of human trafficking in Jamaica, which was a source, transit and destination country for victims of sexual trafficking and forced labour. As the State party had previously adopted an action plan to combat trafficking in persons, it would be helpful to know what the outcome of the plan had been, whether additional measures had been taken to eliminate trafficking in persons and what specific measures had been taken to protect children from sexual exploitation. It would also be helpful to have further information on the prosecution of trafficking cases, including examples of the sentences handed down to traffickers. With regard to trafficking victims, he wished to know whether the Government had established a specific protection mechanism that provided them with, for example, housing or financial assistance.

43. International cooperation was vital to promoting safe and healthy living conditions for migrant workers, as well as to preventing and eliminating clandestine labour migration. In that context, he requested information on measures taken by Jamaica in cooperation with other countries, particularly member States of the Caribbean Community, including any bilateral agreements concluded between Jamaica and countries that received Jamaican migrant workers, to ensure that such workers enjoyed safe working conditions and were able to meet their socioeconomic and cultural needs.

44. **Ms. Gordon** (Jamaica) said that the Government had engaged in preliminary discussions on granting the right to vote to Jamaican nationals who resided abroad. With regard to private employment agencies, there were approximately 50 overseas employment agencies operating in Jamaica which covered, inter alia, student employment, work in seasonal hotel programmes and on cruise ships, and work in Canada and the United States. Inspections of employment agencies were conducted on a quarterly basis and included interviews with agency staff and examinations of financial records.

45. In the past, the Government had not supported the practice of retaining a share of migrant workers' remittances; information regarding its current position on that question would be transmitted to the Committee in due course. The Government had, however, traditionally provided assistance to workers by sending their remittances through the central bank to private family bank accounts.

46. Under the Trafficking in Persons (Prevention, Suppression and Punishment) Act, which placed particular emphasis on women and children, the Government was required to protect and assist victims of trafficking, facilitate the investigation of cases and promote international cooperation in preventing trafficking and punishing offenders. Measures taken to implement the Act had included increasing the number of police raids in strategic locations and ensuring that training on the subject was provided to judicial personnel and police officers on an ongoing basis. Since the Act had come into force, a conviction had been handed down in four cases; of those, two had resulted in a custodial sentence and two in a fine of over 4 million Jamaican dollars. Restitution orders in favour of the victims had been issued in the same proceedings. Specialized units for investigating trafficking had been set up within the police force and the Office of the Director of Public Prosecutions. In several cases, the work of those units had resulted in the rescue of child victims of trafficking and in the initiation of judicial proceedings.

47. In addition, information on trafficking in persons had been included in police guidelines on safety and security, which contained definitions of key terms and a description of relevant protocols. The issue of human trafficking would be included in the international migration development policy, which was aimed at strengthening transnational cooperation, promoting compliance with international and national laws and conventions, and strengthening and implementing data information systems.

48. In order to protect the victims of trafficking, the Government provided relevant legal and medical services, such as counselling and psychosocial services, court orientation and accompaniment, home visitation, and specialized individual and group support. It also provided accommodation and had set up a shelter specifically for female victims. Through the Child Development Agency and the police force, child victims also received welfare services at authorized shelters, as well as medical assistance and educational support.

49. Regarding the reintegration of victims of trafficking, there was ongoing collaboration between non-governmental organizations and other stakeholders to provide training in practical skills and to offer opportunities for educational and personal development. The Theodora Project, for example, provided training and counselling to female victims of trafficking and organized educational assessments for young people. The Government also provided financial support for the education of victims.

The meeting rose at 6 p.m.

United Nations CMW/C/SR.346

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Distr.: General
12 April 2017

Original: English

Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families
Twenty-sixth session

Summary record (partial)* of the 346th meeting
Held at the Palais Wilson, Geneva, on Wednesday, 5 April 2017, at 10 a.m.

Chair: Mr. Brillantes

Contents

Consideration of reports submitted by States parties under article 73 of the Convention (*continued*)

Examination of the implementation of the Convention by Jamaica in the absence of a report (*continued*)

* No summary record was prepared for the rest of the meeting.

This record is subject to correction. Corrections should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of the present record to the Documents Management Section (DMS-DCM@un.org).

Any corrected records of the public meetings of the Committee at this session will be reissued for technical reasons after the end of the session.

GE.17-05585 (E) 110417 120417

1705585

Please recycle

The meeting was called to order at 10.15 a.m.

Consideration of reports submitted by States parties under article 73 of the Convention (*continued*)

Examination of the implementation of the Convention by Jamaica in the absence of a report (*continued*) (CMW/C/JAM/QPR/1)

1. *At the invitation of the Chair, the delegation of Jamaica took places at the Committee table.*

2. **Ms. Gordon** (Jamaica) said that in keeping with its efforts to bring domestic laws into line with the Convention, her Government would undertake a review of legislation in the light of the International Labour Organization's recommendations regarding compliance with the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), and it would discuss proposed amendments with social partners in accordance with the usual practice. However, the Government maintained its stance that Jamaica was not in a position to make a declaration under article 76 of the Convention.

3. The Government was not aware of any negative impacts on Jamaica caused by the recent policies adopted by the United States of America in relation to immigration and migrant workers. Having already provided a comprehensive outline of the services available to migrant workers for the lodging of complaints, the delegation wished to add that the Liaison Service, which was managed jointly by the Ministry of Labour and Social Security and the Ministry of Foreign Affairs and Foreign Trade, had deployed officers in Canada and the United States who could respond to workers' needs on a 24-hour basis. Reported disputes and cases of abuse were investigated and employers were contacted so that any detected infringements or other issues could be discussed and addressed.

4. The Child Care and Protection Act made it an offence for any person under the age of 18 years not to attend school. Any non-attendance by children, including the children of migrant workers, was thus usually considered an offence.

5. The Government had no policy of withholding or deducting any part of the remittances sent by migrant workers to their families. In the past, workers taking part in the Overseas Employment Programme in Canada and the United States had directly remitted funds to their accounts through a Government-operated mechanism that ensured that families received the funds in a timely and consistent manner. However, new regulations introduced by the United States and Canada, in 2010 and 2016 respectively, prohibited the sending of remittances via that mechanism. The delegation did not have any information about the costs incurred by migrant workers in sending their remittances home: it was thought that they now used regular banking channels and money transfer services, which were paid for at the market rate.

6. The delegation wished to provide further information in relation to the management and organization of recruitment agencies. The Employment Agencies Regulation Act and its supporting regulations stipulated that employment agencies should charge no more than 45,000 Jamaican dollars for placing a person in employment overseas and no more than 2,500 Jamaican dollars for registration. Agencies charging fees in excess of such amounts were liable for prosecution. They were also prohibited from charging fees for the placement of any person requiring an H-2B visa to carry out non-agricultural work in the United States. The Ministry of Labour and Social Security held meetings with employment agency operators at least once a year with a view to strengthening migration regulations and control mechanisms, discussing new developments and policies — including strategies for the protection of migrant workers — and reminding operators of their legal obligations and the consequences of non-compliance.

7. The National Plan of Action for Combating Trafficking in Persons in Jamaica, adopted in 2012, had been updated for the period 2015-2018 with strategic imperatives and outputs and an emphasis on prevention, protection and prosecution. Key activities carried out under the Plan had included the opening of a shelter for victims of trafficking in 2013; amendment of the Trafficking in Persons (Prevention, Suppression and Punishment) Act of 2007; the appointment of a national rapporteur; the development of standard operating

GE.17-05585

procedures, a law enforcement and immigration regime and victim services; and a sustained public education campaign, including the running of public service announcements, presentations in various forums, the strategic placement of billboards and mass distribution of literature on human trafficking, and the inclusion of the topic in the secondary school curriculum. During 2015 and 2016, the National Task Force against Trafficking in Persons had partnered with the United Nations Development Programme (UNDP) to develop effective anti-trafficking strategies, including the creation of a database and the funding of a study and a project to combat trafficking in persons. Ongoing collaboration with UNDP was aimed at developing a national policy on trafficking in persons in order to strengthen the framework in which anti-trafficking interventions were designed and implemented; defining institutional arrangements of the National Task Force; and establishing strategic goals and a monitoring and evaluation framework. The National Task Force was working in parallel with the International Organization for Migration (IOM) to develop and implement strategies to effectively combat trafficking in persons. Under that approach, training and technical assistance had been provided for members of the judiciary and government officials involved in efforts to counter human trafficking. The Bureau of Women's Affairs, attached to the Office of the Prime Minister, was engaged in awareness-raising efforts and over the previous two years had sought to ensure that the topic was included in discussions on gender-based violence. Further information related to trafficking, including details on cases and prosecutions prior to 2016, would be submitted in writing to the Committee.

8. The Government was not contemplating any measures to amend the Deportation (Commonwealth Citizens) Act, the Aliens Act or the Immigration Restriction (Commonwealth Citizens) Act, which criminalized irregular migration. However, the National Policy and Plan of Action on International Migration and Development addressed the protection of migrants in three areas: family, migration and development; labour mobility and development; and human rights and social protection.

9. Civil society organizations had been included in various coordination activities and were consulted by the National Task Force against Trafficking in Persons on a quarterly basis. Such coordination was not ad hoc but was based on an established schedule of periodic meetings. Civil society organizations had not been involved in drafting the statement presented to the Committee and had no ongoing involvement in matters related to work permits or the free movement of persons; however, they had been consulted on policies formulated in respect of certain issues, including the National Policy and Plan of Action on International Migration and Development. Moreover, the Government was required to follow the Consultation Code of Practice for the Public Sector in its consultations with civil society. Non-governmental organizations (NGOs) in Jamaica had limited involvement in migration and potentially sensitive border security issues; individuals and organizations working in that area tended to be engaged in providing shelter, often on an emergency basis. To address the paucity of technical data, the Statistical Institute of Jamaica had begun a joint initiative with IOM to establish a central migration database that would compile all migration-related data existing in various government ministries, agencies and departments.

10. The Government did not specifically cite the name of the Convention when advising citizens about their rights, since its provisions had been incorporated into Jamaican law. However, the Ministry of Labour and Social Security did advise Jamaican migrant workers of their rights in pre-departure training sessions, and workshops were held with the families of departing migrant workers to give them information about the programmes coordinated by the Government. A further skills training project would be undertaken with IOM to enhance and strengthen the labour recruitment process for overseas work programmes. The Office of the United Nations High Commissioner for Human Rights had conducted general training for judges on all the conventions to which Jamaica was a party. The Passport, Immigration and Citizenship Agency provided information to migrant workers entering the country and further information was published on the website of the Ministry of Labour and Social Security.

11. As the Committee's question about discriminatory legislative provisions was taken to refer to section 4 of the Immigration Restriction (Commonwealth Citizens) Act and section 6 of the Aliens Act, the delegation replied that those provisions did not deliberately

target persons with disabilities but rather responded to the need to regulate the entry of people who could pose a risk to public safety and security or who might become a burden on public resources. The provisions applied as well to non-disabled persons. In practice, many provisions that were perceived as discriminatory were not applied at ports of entry, since government agencies took administrative measures and made collective decisions that sought to avoid any breaches of human rights law. Both Acts were being amended to remove offensive appellations ascribed to persons with mental or other disabilities.

12. In response to the question about sexual exploitation, the delegation wished to stress that the Trafficking in Persons (Prevention, Suppression and Punishment) Act criminalized forced labour, child trafficking, sexual exploitation, exploitation of prostitution and domestic servitude. The concept of "sex tourism" was not recognized in Jamaican law.

13. The delegation did not have full information at its disposal regarding the matter of irregular migrants, but it wished to underscore that the Government acted in accordance with Jamaican and international law and took account of extenuating circumstances. For example, in 2007 a group of 90 Honduran nationals had been caught engaging in illegal fishing activity in Jamaican waters. The Anti-Trafficking in Persons Unit of the Jamaica Constabulary Force, acting in conjunction with other government agencies, had determined that a number of minors working on the vessel were victims of trafficking. After being taken to safe housing provided by the authorities, they had been later returned to their homeland for processing and for the cases of human trafficking to be prosecuted. In view of the continued prevalence of unlawful activities in Jamaican waters, such as drug-smuggling, people-smuggling and poaching, any illegal immigrant apprehended in the country's maritime jurisdiction was charged and taken before a judge.

14. The Government was not contemplating any changes to section 9 of the Aliens Act, since it believed that security considerations warranted the retention of the provision permitting the detention of irregular migrants. Subject to ministerial discretion, low-risk migrants might be accommodated in other facilities, such as hotels, or be allowed to live with family members, whereas persons posing a serious security risk could be held in correctional facilities. Foreign nationals awaiting deportation were held in an area separate from convicted prisoners and were not harmed while in custody. Migrant workers had the right to appeal to the authorities if they were not granted work permits.

15. With an eye to improving the working conditions of migrant workers and protecting them from abuse, the Government continued to raise public awareness through ongoing campaigns about the dangers presented by some private recruiting agencies. Regarding the question of remuneration, the Government planned to amend the Employment (Equal Pay for Men and Women) Act so as to render it more effective.

16. As part of the Government's arrangements for accommodating returning citizens, including participants in overseas employment programmes, a general regime was in place that afforded special customs allowances for residents who were returning voluntarily and met certain eligibility criteria. The Ministry of National Security had an arrangement in place for reviewing the cases of persons scheduled for deportation prior to their return to Jamaica; it could thus ascertain whether such individuals had any appeals pending and whether all legal remedies had been exhausted in the deporting country.

17. Concerning the protection of Jamaican nationals overseas, the memorandum of understanding that governed the Canadian Seasonal Agricultural Workers Programme contained four main principles: that the programme would be administered according to guidelines subject to annual review by both countries; that workers would be employed at a premium cost to the employers and would receive accommodation and fair and equitable treatment while in Canada; that workers would be employed in the Canadian agricultural sector only during set periods when workers resident in Canada were not available; and that each worker and employer would sign an employment agreement, subject to annual review by both parties. In Jamaica, the programme was administered by a management committee formed of representatives of the Ministry of Labour and Social Security, the Ministry of Finance and the Public Service, the Solicitor General and the major trade unions, which also represented civil society. In addition, the memorandum of understanding permitted the deployment of Jamaican officials to Canada to protect workers' welfare and to ensure the

smooth operation of the programme for the mutual benefit of both countries. The United States seasonal labour programme operated within legal and policy frameworks administered by the Jamaican and United States authorities, with protection services for workers provided by the Liaison Service and the Department of Labor, respectively.

18. The delegation wished to add that Jamaica was a signatory to other relevant multilateral agreements, including the Protocol against the Smuggling of Migrants by Land, Air and Sea, supplementing the United Nations Convention against Transnational Organized Crime, and a 1996 agreement of the Caribbean Community (CARICOM) that aimed to harmonize the social security legislation of member States such that workers and their dependants could draw social security benefits in the countries where they had contributed.

19. **Mr. Ceriani Cernadas**, noting that CARICOM had an existing framework for the free movement of skilled labour, said that he was interested to know whether any initiatives had been undertaken by the State party or coordinated with other Caribbean countries with a view to reaching a comprehensive agreement on other types of migration, such as migration from Haiti, migration of unskilled labour or forced migration owing to natural disasters, political conflict, poverty, exclusion or discrimination.

20. The Committee welcomed the clarification that the discriminatory clauses prohibiting persons with disabilities from entering Jamaican territory were not applied. However, it would be grateful for updated information on any steps taken to amend domestic laws and bring them into line with the State party's obligations under the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Convention on the Rights of Persons with Disabilities.

21. Referring to the delegation's statement that irregular migrants were either detained in penitentiary institutions or sent to other locations depending on the security risk that they presented, he wished to learn whether alternatives to incarceration were available so that individuals could remain at liberty, for example during deportation proceedings. What category of persons might be able to benefit from such alternative measures? The delegation should indicate which entities or individuals, such as ministers or courts, were responsible for deciding how migrants were treated, and it should also state whether migrant children under the age of 18 years were held in correctional facilities or at other centres. The Committee was interested to know how the State party applied the provisions of section 4 of the Immigration Restriction (Commonwealth Citizens) Act in respect of unaccompanied migrant children who, if not the victims of trafficking, were unable to communicate effectively due to illiteracy or other reasons and were therefore in a situation of vulnerability. How did the authorities respond when such children arrived at a port of entry?

22. Lastly, recalling his earlier question concerning sexual orientation, which had not been intended to ascertain whether migrant workers faced discrimination on such grounds, he wished to know the delegation's response to reports that many Jamaican nationals of a certain sexual orientation were forced to migrate or were thinking about migrating as a consequence of discrimination, ill-treatment, abuse or violence. He wondered what measures the State party had taken to prevent such situations.

23. **Ms. Landázuri de Mora** said that although Jamaica was a comparatively young country, it was to be commended on the scope of its efforts to protect its citizens abroad. That said, she would appreciate more in-depth information about the wages and rights of its migrant workers, including whether they received the same wages as those paid to nationals of the host country and were thus protected against wage discrimination.

24. The Committee was grateful for the details provided on the employment programmes in Canada and United States but would welcome more information on work schemes, if any, that had been implemented in the United Kingdom of Great Britain and Northern Ireland. Lastly, she asked what actions the Government had taken for the social welfare of Jamaican children whose parents or family members had migrated and whether any mechanisms had been put in place for their protection.

25. **Mr. Tall** said that the Committee had received reports of deplorable conditions in prisons and detention facilities in the State party, including overcrowding, lack of medical care, poor sanitary conditions, failure to separate persons held on remand from convicted prisoners and the lack of a legal framework applicable to pretrial detention. Pursuant to article 17 of the Convention, States parties were required to hold migrant workers separate from convicted prisoners and juveniles separate from adults. He therefore wished to know what action had been taken by the State party to guarantee the rights of migrant workers who had been deprived of their liberty on the grounds of their migration status.

26. There had been allegations of torture, ill-treatment and the use of excessive force by law enforcement officers during arrest and interrogation in police stations and other detention facilities. He asked whether any migrants had been subjected to such treatment and, if so, whether the perpetrators had been prosecuted and the victims had been compensated. He also enquired about the procedures for lodging complaints in such circumstances.

27. **The Chair**, speaking in his capacity as a Committee member, said he was concerned that NGOs had not been consulted with regard to possible involvement in the preparation of a report. He asked whether they had requested to participate. He also enquired about the State party's view that civil society was represented by trade unions.

28. **Ms. Ladjel**, in requesting clarification of the concept of circular migration, said that it was reportedly a palliative measure that enabled families to earn an income without obtaining permanent employment. She asked how the State party proposed to convert that practice into a longer-term solution for Jamaicans in search of employment.

29. **Mr. Kariyawasam** said he noted that some migrant workers in the State party were employed as professionals, for instance as physicians and accountants. He asked whether migrant workers who married a Jamaican national automatically acquired citizenship or were merely issued with a residence permit.

The meeting was suspended at 11.15 a.m. and resumed at 12.05 p.m.

30. **Ms. Gordon** (Jamaica) said that detailed information concerning CARICOM regional initiatives regarding migration issues would be provided in due course. A regional mechanism had been established to handle mass movements of persons in emergency situations, such as natural disasters. Jamaica respected the distinction between migrant workers, refugees and internally displaced persons and had developed separate procedures for each category. Inasmuch as the territories of CARICOM member States were not all contiguous, since some were islands and others were on the coast of the continental mainland, the approaches adopted to migration were not necessarily the same for each State.

31. A comprehensive response to the question on legislation concerning persons with disabilities would be provided in due course.

32. With regard to irregular migrants, she requested information from the Committee regarding reports of specific cases in which they had been detained and subjected to human rights violations.

33. No employment programmes with the United Kingdom were administered by the Jamaican Government; the Overseas Employment Programme focused on the United States and Canada. Reciprocal social security agreements had been signed with the United Kingdom in 1972, with Canada in 1983, with Quebec in 1988 and with 12 CARICOM countries in 1996. Migrants could work in those countries without losing their social security benefits. The reciprocal agreements were also applicable to refugees and their families residing in the territory of another party.

34. Incidents involving vulnerable migrant children were very rare. When they occurred, they were handled on a case-by-case basis in a humanitarian manner and in accordance with the law. As Jamaica was an island, unaccompanied children rarely arrived by sea or air.

35. The Family Services Unit of the Ministry of Labour and Social Security provided welfare and support services for overseas workers and their families. Social workers paid routine visits to families to assess their situation and to submit recommendations for assistance to relevant agencies. Other interventions included: guidance for improving

families' living standards; assistance in securing financial and other support for income-generating projects; ensuring that families were being supported by overseas workers and that workers were communicating with their families; and provision of counselling services for sick or injured workers at home or in hospital. In cases where children were left at home, the Ministry assessed their living conditions and, where the conditions were deemed to be inadequate, recommended assistance under relevant social programmes. The Ministry also ensured that they received medical assistance and that they were enrolled in and attended school. It supported the registration of children in social programmes and referred children with disabilities to relevant agencies, including the Jamaica Council for Persons with Disabilities and the Early Stimulation Programme.

36. With regard to allegations of torture and excessive use of force by the police, she referred the Committee to the interactive dialogue conducted with the Universal Periodic Review Working Group in 2015 and the Human Rights Committee in 2016 and the data and reports submitted on those occasions. In addition, she requested information regarding specific allegations of ill-treatment, torture or excessive use of force against migrant workers by State agents. She stressed that irregular migrant workers were held separately from convicted prisoners in detention facilities.

37. The Government had never pursued a policy of restricting the free movement of Jamaican nationals overseas. Numerous studies had been conducted, including by the University of the West Indies, on people's motives for migration. There was in fact strong evidence that many Jamaicans were predisposed to migrate.

38. The delegation wished to know which NGOs or civil society organizations had hoped to be involved in preparing the initial report to the Committee, since only a few had demonstrated an interest in the topic. Trade unions were deemed to represent civil society. They were highly active and usually took a strong interest in migrants, especially those employed overseas.

39. A more holistic picture of circular migration and its positive impact on people's lives would be provided in due course. Workers under seasonal programmes had improved their standard of living in Jamaica and had educated their children up to the tertiary level. Many seasonal workers also had regular income-generating activities in Jamaica. Both overseas and locally based workers engaged in sophisticated planning and budgeting, focusing on education and housing.

40. Migrants who married Jamaican nationals were presumably in possession of a work permit. They could then apply for a permanent residence permit.

41. **Mr. Tall** said that the Human Rights Committee had expressed concern in its concluding observations (CCPR/C/JAM/CO/4) regarding reports of torture, ill-treatment and excessive use of force by the police or security forces during arrests, in police stations, during interrogation and in detention facilities. If Jamaican nationals were subjected to such treatment, it was more than likely that detained migrants were at even greater risk of ill-treatment. He enquired about the measures taken to prevent such violence and to ensure that irregular migrants were not subjected to ill-treatment during the time they were detained. He also enquired about measures taken to prosecute the perpetrators when the authorities were informed of cases of ill-treatment and those taken to compensate the victims.

42. **Ms. Gordon** (Jamaica) said that in the absence of confirmation by the Committee that it had received reports of specific cases in which migrant workers had been subjected to ill-treatment while in detention, she would seek to ascertain whether there were any such cases and would inform the Committee thereof in due course.

43. **Mr. Ceriani Cernadas** said that the failure of the State party to submit an initial report and to reply to the list of issues forwarded in October 2015 had rendered the Committee's task quite onerous. It had been unable to raise specific questions owing to the lack of statistics and qualitative data concerning the implementation of relevant legal provisions. However, the Committee welcomed the information provided during the interactive dialogue and looked forward to receiving additional information as soon as possible so that it could be reflected in the conclusions and recommendations.

44. It was also regrettable that there was no forum for dialogue with civil society on issues pertaining to migrant workers and that no information or shadow report had been submitted by civil society organizations.

45. His question regarding discrimination on grounds of sexual orientation had not implied that the persons concerned encountered impediments to emigration. He wished to know whether they were subjected to discrimination, leading in some cases to violence and persecution, and decided on that ground to emigrate.

46. **Ms. Castellanos Delgado**, while welcoming the fruitful dialogue with the State party, said that she was curious to know why it had submitted reports to other treaty bodies but not to the Committee. The dialogue was not intended to place States parties in the dock but rather as a means to exchange information and opinions with a view to supporting the rights and improving the conditions of migrant workers and their families.

47. **Ms. Gordon** (Jamaica) said that the delegation had found the dialogue highly constructive. Supplementary information would be provided as soon as possible and the Jamaican authorities would carefully consider the concluding observations.

The discussion covered in the summary record ended at 12.45 p.m.

United Nations CMW/C/SR.347

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Distr.: General
13 April 2017

Original: English

Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families
Twenty-sixth session

Summary record (partial)* of the 347th meeting
Held at the Palais Wilson, Geneva, on Wednesday, 5 April 2017, at 3 p.m.

Chair: Mr. Brillantes

Contents

Consideration of reports submitted by States parties under article 73 of the Convention *(continued)*

Examination of the implementation of the Convention by Nigeria in the absence of a report

* No summary record was prepared for the rest of the meeting.

This record is subject to correction. Corrections should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of the present record to the Documents Management Section (DMS-DCM@un.org).

Any corrected records of the public meetings of the Committee at this session will be reissued for technical reasons after the end of the session.

GE.17-05587 (E) 130417 130417

1705587

Please recycle

The meeting was called to order at 3.05 p.m.

Consideration of reports submitted by States parties under article 73 of the Convention (*continued*)

Examination of the implementation of the Convention by Nigeria in the absence of a report (CMW/C/NGA/QPR/1)

1. **The Chair** said that, in accordance with the Committee's rules of procedure, the country rapporteurs would give a presentation of the progress that Nigeria had made in implementing the Convention, in the absence of the initial report of Nigeria and in the absence of a delegation from the State party.

2. **Ms. Ladjel** (Country Rapporteur) said that Nigeria was a large federal Republic located on the Gulf of Guinea in West Africa and shared borders with Benin, Niger, Chad and Cameroon. With a population of more than 190 million, Nigeria was the most populous country in Africa and the seventh most populous in the world. Because it had the largest economy on the African continent, Nigeria was an economic powerhouse that was often referred to as the "giant of Africa".

3. Nigeria was a State of origin, transit and employment for migrant workers; approximately 5 million of its nationals lived overseas, while some 600,000 foreign nationals lived in Nigeria. Since 2009, operations by Boko Haram had destabilized the security situation in Nigeria, leading to the loss of millions of human lives and to over 1 million internally displaced persons.

4. The State party had ratified the eight fundamental conventions of the International Labour Organization (ILO), as well as the ILO Migration for Employment Convention (Revised), 1949 (No. 97). However, it had not ratified the ILO Domestic Workers Convention, 2011 (No. 189), which meant that the rights of domestic workers in Nigeria and those of Nigerian migrant domestic workers who were recruited to work abroad were not sufficiently protected. The State party had ratified the Convention on the Elimination of All Forms of Discrimination against Women in 1985, but the country's gender and equal opportunities bill had not been adopted until 2016. The Child's Rights Act had been adopted by 23 of the country's 36 states.

5. The State party had adopted a National Employment Policy in 2014 with the aim of better managing its labour market, and it had adopted a National Policy on Migration and an accompanying Implementation Plan in 2015. However, the lack of up-to-date information made it difficult to draw any conclusions as to the progress that had been made in implementing those two policies.

6. Nigeria had established the National Human Rights Commission in 1995. However, there was a lack of international visibility regarding the Commission's work. The State party had also established the National Agency for the Prohibition of Trafficking in Persons, but the structure of the Agency needed to be adapted so as to take into account the vast size of the country. In addition, the Agency's powers were not clearly defined and were not very extensive, a situation that was all the more problematic in that the penalty handed down by the courts in trafficking cases was limited to a fine. The Federal Ministry of Labour and Productivity was in charge of coordinating and regulating the State party's migration policy, but it lacked the human and material resources needed to fulfil its functions.

7. Although Nigeria had signed bilateral agreements with a number of countries, there was little information available about the contents of those agreements. Furthermore, Nigeria had not made either of the declarations provided for in articles 76 and 77 of the Convention. There was no Government-sponsored pre-departure training for migrant workers, and social workers required better occupational training and awareness of the country's legislation concerning migration.

8. In terms of discrimination, foreign men were unable to acquire Nigerian nationality on the same terms as foreign women, and foreign unaccompanied children, and foreigners with mental impairments often faced difficulties integrating into Nigerian society. Finally, children were often forced into labour in remote areas or in neighbouring countries, and the

children of migrants with irregular status usually lacked access to health care and education, and were often placed in detention facilities along with their families.

9. **Ms. Dicko** (Country Rapporteur) said that Nigeria faced numerous migration-related challenges. The presence of armed groups — especially Boko Haram — meant that Nigeria had become a very violent country, which placed women and children in a particularly vulnerable situation. The violence had led to mass internal displacement, which made it all the more difficult for the State party to implement the Convention. The trafficking of persons — resulting in individuals being sexually exploited and forced into labour and domestic servitude — was also very common. Nigeria's membership in the Economic Community of West African States (ECOWAS) provided for the free movement of goods and persons in the region; however, it also put Nigeria at the centre of a child trafficking network, whereby children were trafficked primarily for the purposes of labour exploitation on plantations in Côte d'Ivoire and Gabon.

10. The National Policy on Migration, which was aimed at promoting good migration governance, protecting migrant workers and optimizing development, had been adopted with support from the International Organization for Migration (IOM) and the European Union. Nigeria had not ratified the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) or the ILO Private Employment Agencies Convention, 1997 (No. 181).

11. **Ms. Landázuri de Mora** said that the State party had acceded to the Convention in 2009 and had therefore had a relatively short time to implement it, which could explain why it had not submitted a report or sent a delegation. The Committee should encourage the State party, helping it to understand that the major migration-related challenges it faced could largely be resolved through better implementation of the Convention. The Committee should make itself available to the State party and help to build the capacity of the national authorities by showing them how to use the Convention as a tool in formulating policy, designing programmes and developing the country's legislation on migration. It was also necessary to raise awareness of the Convention among civil society organizations in Nigeria so that they could promote its implementation.

12. **Mr. Brumme** said that the failure of Nigeria to submit a report and send a delegation to take part in an interactive dialogue with the Committee was an excellent illustration of a case in which it was necessary to enlist the cooperation of IOM. The Committee could encourage IOM to provide training and other technical assistance or support to countries that lacked the capacity to meet their reporting and other obligations under the Convention. Such cooperation should be a key issue in the Committee's dialogue with IOM.

13. **Mr. Coriani Cervadoro** said that, while he recognized the major challenges that Nigeria faced, he had the impression that it actually did have the necessary capacity and resources to produce a report and send a delegation to meet with the Committee. He wished to know whether the country rapporteurs had been able to obtain any information on the protection afforded by the State party, notably by its consular staff abroad, to Nigerian nationals who had left the country as result of violence relating to Boko Haram; Nigerian migrants in transit countries, particularly those who had remained in Libya in their attempts reach Europe; and Nigerian migrants who had been expelled from European countries. It would be interesting to know more about such protection, given the prevailing violence in Nigeria and the fact that Nigeria was one of the countries with which the European Union was expected to sign a bilateral agreement concerning repatriation and migration control.

14. **Ms. Ladjel**, responding to Committee members' questions and remarks, said that where there was political will, States parties found ways to meet their obligations, citing Mauritania as a recent example of a State party whose failure to submit its initial report had been due to its need for technical assistance in preparing the report. Once such assistance had been provided, the Government of Mauritania had quickly complied with its reporting obligations.

15. It was important to note that no non-governmental organizations had been present at the 342nd meeting to report on the situation of migrant workers' rights in Nigeria, nor had any alternative report been submitted to the Committee by such organizations. The

Committee should approach the Permanent Mission of Nigeria in Geneva in order to find out why no report and no delegation had been forthcoming and request it to transmit those questions to the State party. It was regrettable that the Committee had been prevented from carrying out its mandate to monitor the situation of the rights of migrant workers in as big a country as Nigeria, which was also one of enormous human and material potential. The fact that there were 5 million Nigerians abroad was significant and gave rise to a number of challenges that the State party needed to address.

16. **Ms. Dicko** said that, largely as a result of the lack of alternative reports from civil society organizations, no information appeared to be available on the return of migrants to Nigeria or on the situation of the rights of Nigerian migrants who were passing through Libya on their way to Europe.

The discussion covered in the summary record ended at 3.50 p.m.